

न्यायालयांतील जुनी व निरर्थक प्रकरणे (Stale & ineffective cases) काढून टाकण्यासाठी समिती गठीत करण्याबाबत.

महाराष्ट्र शासन,
विधी व न्याय विभाग,
शासन निर्णय क्र.संकीर्ण २०११/प्र.क्र.१००/का.१२
मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मंत्रालय, मुंबई ४०० ०३२.
दिनांक : २१ नोव्हेंबर, २०११.

वाचा :- शासन निर्णय, विधी व न्याय विभाग क्र.संकीर्ण २०११/प्र.क्र.१००/का.१२, दिनांक १७.८.२०११.

प्रस्तावना :

न्यायालयांमध्ये मोठ्या प्रमाणावर प्रलंबित असलेली जुनी व निरर्थक प्रकरणे तत्परतेने निकाली काढण्यासाठी राज्यस्तरीय समिती व जिल्हास्तरीय समितीची स्थापना शासन निर्णय, विधी व न्याय विभाग क्र.संकीर्ण २०११/प्र.क्र.१००/का.१२, दिनांक १७.८.२०११ अन्वये करण्यात आली आहे. राज्यस्तरीय समितीची दिनांक ४.१०.२०११ रोजी मा.मुख्य सचिवांच्या अध्यक्षतेखाली बैठक संपन्न झाली असून त्यामध्ये जुनी व निरर्थक प्रकरणे निकाली काढण्यासाठी मार्गदर्शक तत्वे तयार करण्याबाबत विस्तृत चर्चा करण्यात आली. समितीने ठरविल्यानुसार आवश्यक मार्गदर्शक तत्वांना मंजूरी देण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय :

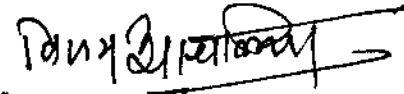
न्यायालयांमध्ये प्रदीर्घ काळापासून जुनी आणि प्रलंबित असलेली निरर्थक व अपरिणामकारक प्रकरणे (Stale & ineffective cases) काढून टाकण्यासाठी शासनाच्या समक्रमांकाच्या दिनांक १७.८.२०११ च्या शासन निर्णयान्वये गठीत करण्यात आलेल्या जिल्हास्तरीय

श्रीम.पा.२०११
१२/११/२१

समितीमध्ये सहायक कामगार आयुक्त (Assistant Labour Commissioner) यांचा सदस्य म्हणून तर सदस्य सचिव पदी जिल्हा सरकारी वकील यांचा समावेश याद्वारे करण्यात येत आहे.

२. मा.मुख्य सचिवांच्या अध्यक्षतेखाली दिनांक ४.१०.२०११ रोजी झालेल्या राज्यस्तरीय समितीच्या बैठकीतील निर्णयानुसार जुनी व निरर्थक प्रकरणे निकाली काढण्यासाठी यासोबत जोडलेल्या परिशिष्टातील मार्गदर्शक तत्वांना याद्वारे शासनाची मान्यता देण्यात येत आहे. सदर मार्गदर्शक तत्वांनुसार प्रत्येक जिल्हास्तरीय समिती त्या त्या जिल्ह्यातील दिनांक ३१.१२.२००५ पूर्वी दाखल झालेल्या प्रलंबित प्रकरणांची छाननी करून जी प्रकरणे न्यायालयाच्या स्तरावर निकाली काढणे शक्य नसतील अशी प्रकरणे काढून टाकण्यासाठी विस्तृत अहवाल शासनास (गृह विभाग) सादर करतील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने,



(विजय आनंतिया)

प्रधान सचिव व विधी परामर्शी.

प्राप्त,

- १) मा.मुख्यमंत्री यांचे प्रधान सचिव,
- २) मा. उप मुख्यमंत्री यांचे सचिव,
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- १२) संचालक, अभियोग संचालनालय, महाराष्ट्र राज्य, मुंबई,
- १३) मुख्य नगर दिवाणी व सत्र न्यायाधीश, मुंबई,
- १४) सर्व प्रमुख जिल्हा व सत्र न्यायाधीश,
- १५) सर्व जिल्हाधिकारी तथा जिल्हादंडाधिकारी,
- १६) सर्व जिल्हा पोलीस अधिक्षक,
- १७) सर्व पोलीस आयुक्त,
- १८) सर्व जिल्हा सरकारी वकील,
- १९) सर्व सहायक संचालक (अभियोग),
- २०) सर्व सहायक कामगार आयुक्त,
- २१) सह संचालक, महाराष्ट्र ज्युडीशियल अकादमी, उत्तन, जिल्हा ठाणे,
- २२) कार्यासन अधिकारी/का.०७, विधी व न्याय विभाग,
- २३) विधी व न्याय विभागातील सर्व कार्यासने,
- २४) निवड नस्ती.

शासन निर्णय, विधी व न्याय विभाग क्र. संकीर्ण २०११/प्र.क्र.१००/का. १२

दिनांक २१ नोव्हेंबर, २०११ चे सहपत्र

परिशिष्ट

GUIDELINES FOR WITHDRAWAL OF STALE AND INEFFECTIVE CASES BY STATE

Introduction :

Whereas approximately 40 lakhs cases are pending in the trial Courts. Majority of them are pending in the Courts of Chief Judicial Magistrates' and Judicial Magistrates', First Class. The Summary Triable Cases, 'especially under Bombay Prohibition Act, Bombay Prevention of Gambling Act, Bombay Police Act, Bombay Shops and Establishment Act, Motor Vehicles Act and Summary IPC cases constitute a major portion of the docket of Magisterial Courts.

Whereas, it is experienced that in a number of cases the police machinery fails to secure the presence of the accused and/or witnesses and the time lag takes toll and the cases become infructuous and clog the docket of the Courts.

Whereas in the year 1996 a 'Scheme' was framed to scrutinize and withdraw stale and ineffective cases, which were pending for more than five years and the scheme had then proved successful and it was felt necessary to revive the said scheme.

Whereas the subject was discussed in the meeting of the Hon'ble the Chief Justice and the Hon'ble the Chief Minister held on 03.06.2011 and it was decided that a Committee headed by the Chief Secretary shall be constituted to frame the guidelines for guidance of the officers at the district level for withdrawal of stale and ineffective cases.

Whereas the Committee has been constituted, vide G.R. No.संकीर्ण-२०११/प्र.क्र. १००/१२ dated 17.8.2011.

And now therefore, the Committee has framed following guidelines for withdrawal of stale and ineffective cases and effective monitoring thereof.

Guidelines :

1. These guidelines may be called "Guidelines for Withdrawal of Stale and Ineffective Criminal Cases by the State".

2. These guidelines may be followed by the concerned prosecuting agency, public prosecutor, and the district administration as well as district level officers, in recommending withdrawal of prosecution.

3. Though, the judicial discretion of the Court and Magistrate is not sought to be curtailed, yet, since the guidelines are framed in consultation with the High Court, the concerned Courts and Magistrates may accord due weight to the proposal for withdrawal of prosecution made in pursuance of these guidelines.

4. Stale and ineffective criminal case :

A Stale and ineffective criminal case means a case of the categories enumerated in Clause 5, wherein the charge-sheet has been filed on or before 31st December 2005 and which is still pending before the Court for non availability of the first informant/complainant, victim, witnesses or accused.

For example, the cases in which charge-sheet has been filed on or before 31.12.2005 will become stale and ineffective in the year 2011 if the other conditions in these guidelines are satisfied.

5. Category of cases :

The following categories of cases may be identified as stale and ineffective if they satisfy the criteria prescribed in Clause 4 :

I. Proceedings under Chapter XXI of the Criminal Procedure Code.

II. Offences punishable under :

- a. Bombay Police Act
- b. Bombay Prohibition Act
- c. Bombay Prevention of Gambling Act
- d. Bombay Shops and Establishment Act
- e. Bombay Weights & Measures Act
- f. Motor vehicles Act

III. Offence Triable by Nyayadhikari under The Gram Nyayalayas Act, 2008.

IV. Offences under I.P.C. punishable with imprisonment for a term not exceeding three years.

V. Offences under any other law punishable with imprisonment for a term not exceeding three years.

6. The proceedings to which the guidelines shall not apply :

Provided that the cases

- (a) of offences involving corruption, misappropriation of public funds, whether under the Indian Penal Code, Prevention of Corruption Act, 1947 or any other statute,
- (b) of smuggling, foreign exchange violation and offences under the Narcotics Drugs and Psychotropic Substances Act, 1985,
- (c) under Essential Commodities Act, 1955 and Prevention of Food Adulteration Act, 1954
- (d) of offences under the Arms Act, 1959, Explosive Substances Act, 1908, Terrorists and Disruptive Activities Act, 1987 and POTA
- (e) of offences relating to public servants,
- (f) of offences relating to coins and government stamp,
- (g) of offences relating to giving false evidence and offences against public justice,
- (h) of any other type of offence against the State,
- (i) under the taxing enactments,
- (j) offence under Section 304-A of the Indian Penal Code.
- (k) The Protection of Women from Domestic Violence Act, 2005.

7. District Committee :

1) There shall be a Committee for every district, consisting of the following officials for scrutinizing the stale and ineffective criminal cases and to recommend their withdrawal.

- | | | |
|---|----|------------------|
| (1) The Sessions Judge or his representative not below the rank of Additional Sessions Judge; | .. | Chairman |
| (2) District Magistrate or his representative not below the rank of Sub-Divisional Magistrate; | .. | Member |
| (3) District Superintendent of Police or his representative not below the rank of Deputy Superintendent of Police/ Police Commissioner or his representative not below the rank of Deputy Commissioner of Police. | .. | Member |
| (4) District Government Pleader | .. | Member Secretary |
| (5) Senior Police Prosecutor | .. | Member |
| (6) Assistant Public Prosecutor in charge of the case attached to the Court of concerned Magistrate. | .. | Member |
| (7) Assistant Labour Commissioner | .. | Member |

II) The District Committee shall collect the information in proforma, Annexure "A", appended hereto, as of 31.08.2011 and scrutinize the record and proceeding of the cases to sort out stale and ineffective cases and recommend withdrawal of appropriate cases.

III) The District Committee shall call for the information in the proforma, Annexure "A", at the end of every four monthly period i.e. period ending with April, August and December.

8. Norms for identification of stale and ineffective cases :

I. Though it is not possible to design a strait-jacket formula for determining the non availability of the first informant, complainant, witnesses and accused, nor a rigid time frame, say of one or two years, can be prescribed to reckon non availability of the concerned, yet the District Committee, while determining non availability of the concerned first informant/complainant, victim, witnesses or accused, shall have regard to all the relevant factors, including the nature of the offence, circumstances of the case, character of the alleged offender, the reason for non-availability of the concerned person, its duration, the efforts made to secure his presence, the reports submitted by the police/process server, possibility of his availability in near future and where evidence is partly recorded, the quality of evidence and the possibility of the trial ending in conviction, and the Committee shall take an informed decision.

II) While recommending withdrawal for prosecution, the District Committee, shall ensure that the cases which were never listed on the daily board of the Courts and the cases wherein summons and warrants have not been issued by the office of the Court, shall not be considered stale and ineffective cases.

III) Where the proceedings are pending for non availability of the first informant/complainant and/or witnesses, the Committee shall examine as to whether the delay in the disposal of those cases is attributable to the accused concerned.

IV) The delay caused on account of stay of the criminal proceedings by the superior Court shall not be computed for the purpose of Clause 4.

V) The District Committee shall also ensure that the cases involving professional criminals and/or habitual offenders are not to be treated as stale and ineffective cases.

9. Meeting and Proceedings of District committee:

I. The meetings of the District Committee shall be held beyond the Court hours and ordinarily the Committee shall meet atleast once a month to trace out the stale and ineffective criminal cases. The decisions of the Committee shall be minuted.

II. On receipt of the information in proforma, Annexure "A", in respect of the particular four monthly period the District Committee shall make an endeavour to sort out all the cases before the end of the succeeding four monthly period

III. The District Committee, in appropriate cases, may advise the concerned prosecutor to request the Court to exercise the powers under Section 258 Cr.P.C. to stop the proceedings instead of recommending withdrawal of the prosecution by the State.

IV. The concerned prosecutor may request the Court to exercise the power under Section 258 Cr.P.C. and the relevant extract of minutes of the meeting of the District Committee may be placed on the record of the Court.

V. Where the concerned Court does not exercise the power under Section 258 Cr.P.C. within a reasonable period, not exceeding three months, the Committee may recommend withdrawal of such cases by the State.

VI. On receipt of a recommendation for withdrawal of a prosecution, the secretary, Home Department may act in accordance with the provisions contained in sub-rule (4) of Rule 49 of the Rules for conduct of the Legal Affairs of Government, 1984 and direct the concerned Additional Public Prosecutor, through the District Magistrate, to withdraw the case.

VII. Every District Committee shall submit bi-monthly report in proforma, Annexure "B", appended hereto, to the State Committee.

10. State Committee :

I) There shall be a Committee at the State level consisting of the following officials to monitor the work of the District Committees and to ensure that the recommendations for withdrawal are properly and expeditiously processed.

- | | |
|---|-------------|
| 1. Chief Secretary - | .. Chairman |
| 2. Advocate General, State of Maharashtra - | .. Member |
| 3. Registrar General, High Court, Mumbai - | .. Member |
| 4. Additional Chief Secretary, Home Department (Home) | .. Member |
| 5. Principal Secretary & R.L.A. , Law & Judiciary - | .. Member |
| 6. Principal Secretary, Labour - | .. Member |
| 7. Secretary (Transport) - | .. Member |
| 8. Director of Prosecution - Maharashtra State | .. Member |
| 9. Joint Director, Maharashtra Judicial Academy, Uttan, Thane | .. Member. |

II) The State Committee shall examine the report of every District Committee and ascertain the number of recommendations for withdrawal, which were accepted by the Home Department, and wherein orders for withdrawal have been issued, and the reasons for pendency of the rest of the recommendations with the Home Department.

III) The State Committee may issue appropriate directions to the District Committee regarding the proposals sent or to be sent for withdrawal of prosecution and make suitable recommendations to the Home Department in the matter of according approval in respect of the recommendations which are awaiting decision.

IV) The State Committee shall maintain record in the proforma, Annexure "C", appended hereto.

(Only those cases which fall under Clause 4 & 5 and are not excluded by Clause 6 of the 'Guidelines' be included)

PROFORMA 'A'

DISTRICT AND SESSIONS COURT

[illegible]

DISTRICT COMMITTEE

atures of Chairman and Members of the Committee.

MA 'C'

MITTEE

Recommendations for withdrawal revoked by the Government	No. of recommendations awaiting decision	Remarks
	5	6

Signatures

Chairman
.. Member
.. Member
.. Member
.. Member
.. Member
.. Member
.. Member
.. Member

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are ..